S.B. Civil Writ Petition No.4415/1996

Sarjeet Singh Vs. The Board of Revenue & Ors.

Date of Order :: 02.05.2005

HON'BLE MR. GOVIND MATHUR,J.

Mr. B.K. Bhatnagar, for the petitioner.
Mr. Shyam Ladhrecha,
Mr. C.L. Jain, for the respondents.

By this petition for writ, a challenge is given to the judgment dated 22.3.1995 passed by the Additional Collector (Celling) Sriganganagar exercising powers under sub-section (2) of Section 15 of the Rajasthan Imposition of Celling on Agricultural Holdings Act, 1973 and also the order dated 8.4.1996 passed by the Board of Revenue, Rajasthan Ajmer affirming the order dated 22.3.1995 referred above.

The facts in brief are that the case with regard to imposition of celling on agriculture holding was reopened by the Government on 2.4.1981 and the Additional Collector (Celling) Sriganganagar held that the assessee was holding 73 bighas and 16 biswas of land, that was in excess to the celling limitations to the extent of 11 bighas and 18 biswas. The trial Court ordered for acquisition of the surplus land owned by the assessee i.e. the petitioner.

Being aggrieved by the order passed by the Additional Collector (Celling) Sriganganagar dated 22.3.1995, the assessee preferred an appeal under Section 23 (2)(A) of the Act of 1973 before the Board of Revenue. The Board of Revenue also dismissed the appeal and affirmed the judgment dated 22.3.1995 passed by the Additional Collector (Celling).

The contentions of learned counsel for the petitioner while giving challenge to the orders impugned are that;-

1. The Additional Collector (Celling) as well as the Board of Revenue both erred while not taking into consideration the Tamliknama whereby a part of land was transferred by the petitioner to Mst. Gurudev Kaur, Rajinder Singh and Kalvinder Singh.

2. The Additional Collector (Celling) as well as the Board of Revenue also erred while not taking into consideration the daughter in law and mother of the petitioner as a member of assessee's family.

I have heard learned counsel for the parties.

I do not find any merit in the contention made by the

learned counsel for the petitioner to the effect that the Tamliknama was not taken into consideration by the Board of Revenue as well as by the Additional Collector (Celling) while deciding the celling case of the petitioner. The Tamliknama is dated 1.4.1969 and the celling limits was be examined as on 1.4.1966. The petitioner himself submitted a return wherein he has shown Smt. Gurudev Kaur, Rajinder Singh and Kulvinder Singh as the persons dependent to him and members of his family. The Tamliknama was made in their favour. The trial Court held that the Tamliknama is not a transfer deed but a deed for maintenance. For the sake of argument even if it is assumed that by the Tamliknama, the land was transferred then too it is of no consequence as the persons in favour of whom the land was said to be transferred were dependent to the petitioner assessee on 1.4.1966. The dependents to the assessee are required to be treated as part of his family.

I also do not find any force in the contention of the learned counsel for the petitioner that the courts below have committed any error while not taking into consideration his daughter in law and mother as member of the family.

The petitioner himself filed the return wherein he never shown his daughter in law as member of his family. It is also relevant that both the courts below also held that the mother of the

assessee could not be included in family as she acquired 7 bighas 17 biswas of land on 12.9.1968 from her husband and she was not dependent to the assessee. This finding of fact is based on sound appreciation of evidence, which does not require interference of this Court under Articles 226 and 227 of the Constitution of India.

Consequently, I do not find any error in the judgments passed by the courts below warranting interference under Article 226 and 227 of the Constitution of India. The writ petition therefore, is dismissed. No order as to costs.

[Govind Mathur],J.

Praveen